



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 21, 1995

Mr. Pete Wassdorf  
Deputy General Counsel  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

OR95-1572

Dear Mr. Wassdorf:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your requests were assigned ID#s 37060, 37192, 37194, and 37195.

The Governor's Appointment Office has received four requests for records concerning applicants for various positions, specifically, the Texas State Board of Acupuncture Examiners, the Board of Plumbing Examiners, and the district judge for the 394th Judicial District. You have provided some of the information to the requestors; however, you ask whether certain information must be withheld under section 552.101.<sup>1</sup> The information at issue includes answers provided by the applicants regarding any arrests or convictions and answers to whether applicants for the position of judge have

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<sup>1</sup>We note that regarding ID# 37195, the requestor has claimed in correspondence to this office that he has not been provided with some of the information he requested, specifically, information regarding telephone calls, interviews, conferences, or consultations about these applicants. We further note that the Office of the Governor has stated that it has released some of the requested information. We cannot resolve factual disputes as to what was or was not released. However, it is clear from the original request that the requestor has asked for this information. The Office of the Governor has not raised any exception to this requested information. Therefore, the information is presumed to be public. Open Records Decision No. 195 (1978). Absent a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release this information. *Id.* See also Gov't Code § 552.352 (the distribution of confidential information is a criminal offense).

been disciplined, reprimanded, or cited for a breach of ethics or for unprofessional conduct.

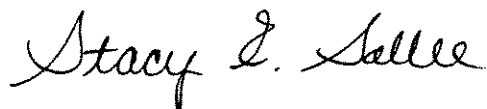
Section 552.101 excepts from disclosure information "considered to be confidential by law, either constitutional, statutory, or by judicial decision." You suggest that disclosure of the requested information would violate the applicants' common-law right to privacy. Information may be withheld under section 552.101 in conjunction with common-law privacy only if the information is highly intimate or embarrassing *and* it is of no legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).

We do not believe that the answers provided by the applicants regarding the existence of any arrests or convictions or disciplinary actions or citations for breach of ethics are highly intimate or embarrassing. Moreover, the public has a legitimate interest in this information. Accordingly, the Office of the Governor may not withhold such information based on section 552.101 of the Government Code in conjunction with common-law privacy. *See generally* Open Records Decision No. 455 (1987).

With respect to the information at issue in Open Records Letter Nos. 95-1087 (1995), 95-1088 (1995), and 95-1089 (1995), criminal history information obtained from DPS is confidential pursuant to statute. Gov't Code §§ 411.083, .084. On the other hand, the information at issue in these requests was provided by the individual applicants and is therefore not governed by the statutory confidentiality provisions found in subchapter F of chapter 411 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Stacy E. Sallee".

Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

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Ref.: ID#s 37060, 37192, 37194, and 37195

Enclosures: Submitted documents

cc: Judge Val Clark Beard  
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